

City of Detroit

CITY COUNCIL

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ANNE MARIE LANGAN
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TO: COUNCIL MEMBERS

FROM: Mr. Irvin Corley, Jr., Director *ICJ*

DATE: October 6, 2008

RE: Response to Questions Concerning Ordinance Amendment Eliminating
Six-Year Rule, Passed December 14, 2005

The following answers are from the Fiscal Analyst in response to the questions raised by Council Member Sheila M. Cockrel in an October 3, 2008 communication concerning the ordinance amendment that eliminated the Six-Year Rule passed on December 14, 2005 by the City Council.

Before providing the answers to the questions contained in the October 3, 2008 communication from Council Member Sheila M. Cockrel the Fiscal Analyst would like to caution City Council that the questions are more legal rather than financial in nature. As such should my responses conflict with those of the City Council Research Analysis Division and/or Law Department I would certainly recommend that Council defer to the legal adviser's responses.

Question 1. Pursuant to the language of Section 11-104, was it proper for the City Council to pass the ordinance amendment eliminating the Six Year Rule without first obtaining an actuarial study?

Based on the reading by the Fiscal Analyst of Section 11-104 of the Charter, and the established practice of obtaining an actuarial report prior to the City Council taking action on pension improvements, the Fiscal Analyst questions the appropriateness of the Council's action that amended the ordinance to eliminate the Six-Year Rule without an actuarial report. This position remains consistent with the recommendation the Fiscal Analyst made at the time the action was considered and approved, that an actuarial study was necessary before final action on the ordinance amendment was voted on/approved by Council.

Question 2. If the action was not proper, what effect does this apparent violation of the Charter have upon the validity of the ordinance amendment?

As the Fiscal Analyst for City Council I am not aware of the specific requirements or ramifications that violations, if this is indeed a violation, of the City Charter of this nature may entail. As the result of recent events and the legal nature of the question the only advice the Fiscal Analyst can provide to City Council, is to request and follow the advice of staff of the City Council Research Analysis Division and the Law Department.

Question 3. Should City Council consider a repeal of the provision eliminating the Six-Year Rule, or other action?

Once again, the Fiscal Analyst would recommend that City Council follow the advice of the City Council Research Analysis Division and the Law Department on the appropriate actions that may be considered concerning the Six-Year Rule at this point.

In general however, from a financial perspective and in light of the continued fiscal challenges facing the City, the Fiscal Analyst would recommend that City Council give very serious consideration to the cost, both current and future, of any pension improvement changes that are presented for consideration. The calculation of the cost of pension improvements can be very complex and requires the expertise of an actuary. Requiring an independent actuarial study, as the Charter in Section 11-104 seems to state, in the Fiscal Analyst's reading, is the only method to properly identify the true cost of a pension improvement that should be considered prior to action.

I trust these responses provide adequate information and the appropriate direction City Council may want to consider to follow.

Attachments

cc: Council Divisions
Auditor General's Office
Kathleen Leavey, Interim Law Department Director
Joseph Harris, Chief Financial Officer
Pamela Scales, Budget Director
Londell Thomas, Mayor's Office

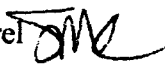
Detroit City Council

SHEILA M. COCKREL
COUNCILWOMAN

TO: Mr. David D. Whitaker, Esq., Director
Research and Analysis Division

Mr. Irvin Corley, Jr., Director
Fiscal Analysis Division

Ms. Kathleen Leavey, Interim Corporation Counsel
Law Department

FROM: Councilwoman Sheila M. Cockrel 

DATE: October 3, 2008

RE: Ordinance Amendment Eliminating Six-Year Rule, Passed December 14, 2005

On December 14, 2005, the City Council passed by a vote of 4-2, an amendment to the General Retirement System ordinance that eliminated the Six-Year Rule. As you know, the City previously did not credit service to employees for previous employment if there was a six-year gap between their previous employment and subsequent employment. Mr. Irvin Corley and Ms. Kay Schloff, Esq., of the Law Department both advised Council at the time of the vote on December 14, 2005, that the Council should obtain an actuarial study prior to passage of the ordinance amendment. This did not occur.

Section 11-104 of the Detroit City Charter states that:

Before final action on any proposed changes in future retirement benefits is taken, the city council shall obtain a report as to the immediate and long-term costs of the change from an independent actuary of its choosing and may not take final action until at least three (3) months after the report of the actuary is made public at a meeting of the city council. (Emphasis added.)

Please answer the following questions:

- 1.) Pursuant to the language of Section 11-104, was it proper for the City Council to pass the ordinance amendment eliminating the Six Year Rule without first obtaining an actuarial study?
- 2.) If the action was not proper, what effect does this apparent violation of the Charter have upon the validity of the ordinance amendment?
- 3.) Should City Council consider a repeal of the provision eliminating the Six Year Rule, or other action?


Please provide responses prior to the **October 10, 2008**, Budget, Finance and Audit Standing Committee meeting. Thank you.

cc: Colleagues
Mayor Kenneth V. Cockrel, Jr.
Mr. Joe Harris, Director, Finance Department
Sheila Kneeshaw, Chair, Board of Trustees, General Retirement System

Detroit City Council

SHEILA M. COCKREL
COUNCILWOMAN

TO: Sheila Kneeshaw, Chair
Board of Trustees, General Retirement System

FROM: Councilwoman Sheila M. Cockrel 

DATE: October 3, 2008

RE: Resolutions Granting Credited Service for Ms. Sharon McPhail, and
December 14, 2005 Ordinance Amendment Eliminating the Six Year Rule.

Please find attached responses from the Fiscal Analysis Division and the Research and Analysis Division with regard to my recent inquiries about the Board of Trustees' resolutions granting Ms. Sharon McPhail credited service for her time on the Police Commission and as a Wayne County Prosecutor. Please respond to the questions Mr. Irvin Corley, Director of the Fiscal Analysis Division, posed to the Board starting at the bottom of page 3 of his response. Also, please respond to the opinions of the Research and Analysis Division regarding the apparent invalidity of both the November 2004 and September 2008 resolutions regarding Ms. McPhail.

Also, please provide a list of names of all employees who, on October 1, 2005, had a gap of more than six years from the ending date of previous credited service and the beginning date of subsequent credited service.

Thank you for your attention.

Attachments

cc: Mayor Kenneth V. Cockrel, Jr., with attachments
Colleagues, without attachments
Mr. Joe Harris, Director, Finance Department, with attachments
Mr. Irvin Corley, Jr., Director, Fiscal Analysis Division, without attachments
Mr. David D. Whitaker, Esq., Director, Research and Analysis Division, without attachments